

HOUSE BILL No. 1092

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-41-1-10.7; IC 35-43.

Synopsis: Crimes on food processing facilities. Provides that the crime of criminal mischief is a Class D felony if the damage causes substantial interruption or impairment of work conducted in a food processing facility. Provides that the crime of criminal trespass is a Class D felony if the crime is committed on a food processing facility. (The introduced version of this bill was prepared by the interim study committee on agriculture and animal issues.)

Effective: July 1, 2002.

Friend, Grubb

January 8, 2002, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1092

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-41-1-10.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2002]: **Sec. 10.7. "Food processing facility"**
4 **means a facility used to prepare or process animal, plant, or other**
5 **food ingredients into food products intended for sale or**
6 **distribution to the general public for human consumption.**

7 SECTION 2. IC 35-43-1-2, AS AMENDED BY P.L.100-1999,
8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2002]: Sec. 2. (a) A person who:

- 10 (1) recklessly, knowingly, or intentionally damages or defaces
11 property of another person without the other person's consent; or
12 (2) knowingly or intentionally causes another to suffer pecuniary
13 loss by deception or by an expression of intention to injure
14 another person or to damage the property or to impair the rights
15 of another person;

16 commits criminal mischief, a Class B misdemeanor. However, the
17 offense is:

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(A) a Class A misdemeanor if:

(i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);

(ii) the property damaged was a moving motor vehicle;

(iii) the property damaged was a car or equipment of a railroad company being operated on a railroad right-of-way; or

(iv) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

(i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);

(ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;

(iii) the damage is to a public record;

(iv) the damage causes substantial interruption or impairment of work conducted in a scientific research facility; or

(v) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or

(vi) the damage causes substantial interruption or impairment of work conducted in a food processing facility.

(b) A person who recklessly, knowingly, or intentionally damages:

(1) a structure used for religious worship;

(2) a school or community center;

(3) the grounds:

(A) adjacent to; and

(B) owned or rented in common with;

a structure or facility identified in subdivision (1) or (2); or

(4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or

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1 invalidated by the bureau of motor vehicles for not more than one (1)
2 year.

3 (d) The court may rescind an order for suspension or invalidation
4 under subsection (c) and allow the person to receive a license or permit
5 before the period of suspension or invalidation ends if the court
6 determines that:

7 (1) the person has removed or painted over the graffiti or has
8 made other suitable restitution; and

9 (2) the person who owns the property damaged or defaced by the
10 criminal mischief or institutional criminal mischief is satisfied
11 with the removal, painting, or other restitution performed by the
12 person.

13 SECTION 3. IC 35-43-2-2, AS AMENDED BY P.L.259-1999,
14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2002]: Sec. 2. (a) A person who:

16 (1) not having a contractual interest in the property, knowingly or
17 intentionally enters the real property of another person after
18 having been denied entry by the other person or that person's
19 agent;

20 (2) not having a contractual interest in the property, knowingly or
21 intentionally refuses to leave the real property of another person
22 after having been asked to leave by the other person or that
23 person's agent;

24 (3) accompanies another person in a vehicle, with knowledge that
25 the other person knowingly or intentionally is exerting
26 unauthorized control over the vehicle;

27 (4) knowingly or intentionally interferes with the possession or
28 use of the property of another person without the person's consent;

29 (5) not having a contractual interest in the property, knowingly or
30 intentionally enters the dwelling of another person without the
31 person's consent; or

32 (6) knowingly or intentionally:

33 (A) travels by train without lawful authority or the railroad
34 carrier's consent; and

35 (B) rides on the outside of a train or inside a passenger car,
36 locomotive, or freight car, including a boxcar, flatbed, or
37 container without lawful authority or the railroad carrier's
38 consent;

39 commits criminal trespass, a Class A misdemeanor. However, the
40 offense is a Class D felony if it is committed on a scientific research
41 facility, **on a food processing facility**, on school property, or on a
42 school bus or the person has a prior unrelated conviction for an offense

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under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

- (1) personal communication, oral or written; or
- (2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public.

(c) Subsections (a) and (b) do not apply to the following:

- (1) A passenger on a train.
- (2) An employee of a railroad carrier while engaged in the performance of official duties.
- (3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.
- (4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.
- (5) A person on the station grounds or in the depot of a railroad carrier:
 - (A) as a passenger; or
 - (B) for the purpose of transacting lawful business.
- (6) A:
 - (A) person; or
 - (B) person's:
 - (i) family member;
 - (ii) invitee;
 - (iii) employee;
 - (iv) agent; or
 - (v) independent contractor;
- going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.
- (7) A person having written permission from the railroad carrier to go on specified railroad property.
- (8) A representative of the Indiana department of transportation while engaged in the performance of official duties.
- (9) A representative of the federal Railroad Administration while engaged in the performance of official duties.
- (10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

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